

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Claimant alleges that he sustained injury each and every day worked from December 1994 through to his last day of work on July 17, 1995. He testified to a progressive worsening of his low back condition during this period which ultimately led to his low back surgery in October of 1995. Therefore, for notice to be timely it must have been given within 10 days of this period.

Respondent's internal procedures required its employees to file a written report of accident within three days. Claimant did fail to file a written report of accident with respondent. Nevertheless, claimant testified he gave verbal notice to his foreman on several occasions. That testimony is uncontroverted in the record as it currently stands. The foreman, Ron Hanks, did not testify at the preliminary hearing. The evidence shows claimant complied with Kansas law. K.S.A. 44-520.

The Appeals Board finds that claimant has established a work-related injury and that notice was timely given.

WHEREFORE, the March 14, 1996 Order of Administrative Law Judge Shannon S. Krysl is affirmed.

IT IS SO ORDERED.

Dated this ____ day of May 1996.

BOARD MEMBER

c: William Phalen, Pittsburg, KS
Frederick J. Greenbaum, Kansas City, KS
Shannon S. Krysl, Administrative Law Judge
Philip S. Harness, Director